

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

IN RE:

Brad M. Mieske,

Debtor.

Case No. 18-22127
Chapter 13
Judge Daniel S. Opperman

OBJECTION TO CONFIRMATION OF DEBTOR'S CHAPTER 13 PLAN

NOW COMES Nationstar Mortgage LLC, d/b/a Mr. Cooper, as servicer for THE BANK OF NEW YORK MELLON f/k/a THE BANK OF NEW YORK as Trustee for CWHEQ Home Equity Loan Asset Backed Certificates, Series 2006-S1 (herein "Creditor"), by and through its attorney, Potestivo & Associates, P.C., and for its Objection to the Confirmation of the Chapter 13 Bankruptcy Plan filed on behalf of Debtor, Brad M. Mieske, (herein "Debtor"), by and through his attorney, Tadd R. Klimmek, states:

1. Debtor filed a Chapter 13 bankruptcy petition on November 8, 2018.
2. Debtor filed a Chapter 13 bankruptcy plan on November 22, 2018.
3. The Debtor's current plan provides for payment of the total amount of \$3,203.37, and arrears on the real property located at 718 Bay Rd., Bay City, MI 48706 in the amount of \$0.00.
4. Creditor intends on filing a proof of claim itemizing the pre-petition default in the amount of approximately \$2,657.90, and the estimated total

- balance due in the amount of \$4,816.35 as of the petition date, with interest calculated at the rate provided for in the Note.
5. The deadline for filing claims in this case is January 17, 2019.
 6. The Chapter 13 Plan is not feasible as proposed by the Debtor. It improperly modifies the rights of this Creditor as a holder of a secured claim secured only by a security interest in real property that is the debtor's principal residence in violation of 11 U.S.C. § 1322(b)(2).
 7. Further, Debtor's plan fails to provide for prompt cure of the default as required under 11 U.S.C. § 1322(b)(3).
 8. The amount proposed by Debtor for payment of Creditor's claim does not comply with 11 U.S.C. § 1325(b)(5)(B), as the estimated value of the subject property is at least \$35,800.00 (based on the state equalized value of \$17,900).

WHEREFORE, Creditor respectfully requests that this Court deny confirmation of Debtor's Bankruptcy Plan, and in addition, Creditor hereby requests and moves this Court to enter an order dismissing this Bankruptcy case as the Debtor has not met the obligations set forth and has failed to propose a confirmable Chapter 13 Plan.

Dated: December 11, 2018

Respectfully Submitted,

/s/Cheryl Cook

Potestivo & Associates, P.C.

By: Cheryl Cook (P52128)

Attorney for Nationstar Mortgage LLC d/b/a

Mr. Cooper

251 Diversion Street

Rochester, MI 48307

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PROOF OF SERVICE

I, Carrie Williams, state that on the 11th day of December, 2018, I served a copy of the Objection to the Confirmation of the Plan and Proof of Service upon:

Tadd R. Klimmek
7479 Middlebelt Rd.
Suite 2
West Bloomfield, MI 48322

Thomas McDonald
Chapter 13 Trustee
3144 Davenport
Saginaw, MI 48602

Via CM-ECF electronic filing to Debtor's Attorney, and the Trustee.

/s/ Carrie Williams

Carrie Williams
Employee of Potestivo & Associates, P.C.
251 Diversion Street
Rochester, MI 48307
248-853-4400
cwilliams@potestivolaw.com